

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---------------------------|---|------------------------------|
| EMMANUEL JOSH MILLER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Civil Action No. 12-206 Erie |
| |) | |
| COURT OF COMMON PLEAS, |) | |
| ERIE COUNTY, PA., et al., |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM ORDER

This Petition for Writ of Habeas Corpus was received by the Clerk of Court on September 5, 2012, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Magistrate Judge Baxter issued a Report and Recommendation, filed September 19, 2013, recommending that the Petition for Writ of Habeas Corpus be denied and that a Certificate of Appealability be denied. ECF No. 27). Petitioner was allowed until October 7, 2013, to file objections. Petitioner filed objections on October 4, 2013.

After de novo review of the pleadings and documents on the case, together with the Report and Recommendation and objections thereto, we adopt Magistrate Judge Baxter's September 19, 2013 Report and Recommendation as the Order of the Court.

Accordingly, the following Order is hereby entered.

AND NOW, this 21st day of October, 2013, it is HEREBY ORDERED, ADJUDGED and DECREED as follows:

The Report and Recommendation dated September 19, 2013 (ECF No. 27) is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 for Writ of Habeas Corpus By A Person In State Custody is denied.

IT IS FURTHER ORDERED that a Certificate of Appealability is denied.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

Maurice B. Cohill, Jr.

Maurice B. Cohill, Jr.
Senior United States District Judge

cc: Emmanuel Miller, pro se
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All Counsel of Record by Notice of Electronic Filing